



UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

DWAYNE P. OTTINGER, III, } Case No. CV 06-2691 PSG(JC)
13 Plaintiff, } (~~PROPOSED~~)
14 v. } ORDER ADOPTING FINDINGS,
15 JAMIE A. VAN ROSSEN, et al., } CONCLUSIONS, AND
16 Defendants. } RECOMMENDATIONS OF UNITED
17 STATES MAGISTRATE JUDGE

Pursuant to 28 U.S.C. § 636, the Court has reviewed the Complaint, Defendants' Motions to Dismiss ("Defendants' Motions"), Plaintiff's Oppositions thereto, Defendants' Replies, Plaintiff's Motion for Temporary Restraining Order and/or Preliminary Injunctive Relief ("Plaintiff's Motion") and all of the records herein, including the Report and Recommendation of United States Magistrate Judge. The Court approves and adopts the United States Magistrate Judge's Report and Recommendation.

IT IS HEREBY ORDERED that: (1) Defendants' Motions are granted in part and denied in part, as detailed in the Report and Recommendation; (2) the Complaint is dismissed – in part with leave to amend, in part without leave to

1 amend, as detailed in the Report and Recommendation; (3) Plaintiff's Motion is
2 denied; (4) Plaintiff shall file any First Amended Complaint within thirty (30) days,
3 if he still desires to pursue this action; and (5) Plaintiff's failure timely to file a
4 First Amended Complaint will subject this action to dismissal based upon
5 Plaintiff's failure to prosecute.

6 IT IS FURTHER ORDERED that the Clerk serve copies of this Order and
7 the United States Magistrate Judge's Report and Recommendation by United States
8 mail on Plaintiff and on Defendants' counsel.

9 IT IS SO ORDERED.

10
11 DATED: 1/22/08

12
13
14 HONORABLE PHILIP S. GUTIERREZ
15 UNITED STATES DISTRICT JUDGE
16
17
18
19
20
21
22
23
24
25
26
27
28